

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEFFREY L. MORRIS,)	
)	
Petitioner,)	8:09CV80
)	
v.)	
)	
ROBERT HOUSTON,)	MEMORANDUM AND ORDER ON
)	COURT’S OWN MOTION
Respondent.)	
)	

On February 1, 2010, the petitioner filed a “Notice of Appeal w/Incorporated Application For Certificate of Appealability.” Filing 22. In that filing, the petitioner asked the court to permit him to proceed in forma pauperis on appeal pursuant to Federal Rule of Appellate Procedure 24(a)(3), which states that “[a] party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization. . . .”

The petitioner’s Motion for Leave to Proceed in Forma Pauperis, filing 2, was denied by my Order of March 31, 2009, filing 10. Memorandum and Order, filing 10, says the petitioner must be required to pay the \$5 filing fee because he has the financial ability to do so. *See* 28 U.S.C. § 1915(a). By that order the petitioner was granted until April 29, 2009, to pay the \$5 filing fee. He has not paid that fee.

Inadvertently, without making certain that the \$5 filing fee had been paid, this court proceeded to resolve the merits of the petitioner’s case, dismissing the petitioner’s Petition for

Writ of Habeas Corpus, filing 20, on January 4, 2010. The result is that he will be permitted to proceed on appeal in forma pauperis without further authorization.

IT IS SO ORDERED.

Dated March 3, 2010.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge